

03/01/2006 09:23 FAX 856 396 0380

HORAN GOLDMAN

FEB. 28. 2006 4:31PM

IMA INSURANCE

211 7457

NO. 8067

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ACTIVE CASE

FAX No. 3029998789

P. 001

CIVIL COVER SHEET

05 - 054

Case 1:05-cv-00454-GMS

The US civil cover sheet is to be completed by the filer and is not to be used for the purpose of providing information to the court. It is to be used for the purpose of providing information to the court. It is to be used for the purpose of providing information to the court.

I. (A) PLAINTIFFS

Michael Roberts

County of Residence of Plaintiff

New Castle DE

CONCEPT OF U.S. PLAINTIFF CASE

DEFENDANTS

M/V SHINAND REEFER in personam

County of Residence of Plaintiff Defendant

Wash. (N/A)

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND EXpropriATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorney of Defendant

Attorney of Plaintiff

Peter F. Hays  
P.O. Box 7753 Wilmington DE 19803-7753  
(302) 777-1115

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 Federal Question (U.S. Constitution, Laws, Treaty)

3 U.S. Government Defendant

4 Diversity (Citizenship of Parties in Two States)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box Only)

Citizen of the State

1 DEF

2 Foreign Citizen

Citizen of Another State

3 DEF

4 Foreign Citizen

Citizen of the U.S.

5 DEF

6 Foreign Citizen

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT

PERSONAL INJURY

PROPERTY DAMAGE

WARRANTY

CONTRACT

WARRANTY

111 Breach of Contract

112 Breach of Contract

113 Breach of Contract

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IMA INSURANCE

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ADVICE

FAX No. 3029998789

P. 002

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE  
IN ADMIRALTY

MICHAEL ROBERTS,  
Plaintiff

-vs-  
M/V SHINANO KEEFER  
in personam  
Defendant.

C.A. No.  
JURY TRIAL  
DEMANDED.

05 - 454

VERIFIED COMPLAINT

Comes now, the Plaintiff, MICHAEL ROBERTS, by and through his attorney, PETER E. HESS, Esq. and alleges and avers as follows:

1) This is a case of admiralty and maritime jurisdiction, as hereinafter more fully appears, and is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

2) This is a third party admiralty action arising out of the Longshoreman and Harborworkers Act providing a cause of action for a longshoreman injured onboard a vessel. Pursuant to 28 U.S.C. §1916, such longshoreman are entitled to the rights and remedies of a seaman and are therefore permitted to bring this action without prepayment of costs, fees or the furnishing of security by the plaintiff.

I. The Parties

3) Michael Roberts ("Roberts") is a domicille of the State of Delaware whose residence is in Wilmington, Delaware.

4) The in personam Defendant is a marine vessel engaged in maritime commerce regularly conducted at the Diamond State (Wilmington) Marine Terminal. Its Delaware shipping agent is Norton Lilly International, located at 11 Gist Rd., Wilmington, Delaware 19801.

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ACTIVE CASE

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P. 003

II. The Facts

5) On June 30, 2003, Roberts was employed as a longshoreman for Murphy Marine, Inc. at the Diamond State Marine Terminal in Wilmington, Delaware, assigned to unload a palletized cargo of frozen meat from the Defendant vessel.

6) Standing in a spot designated by his supervisor, Roberts was assisting in the offloading of pallets by crane in order to make room for a forklift in the cargo hold. The vessel's crane, being operated by a non-Murphy employee, negligently caused a pallet of frozen meat to swing while being lifted from the cargo hold. The pallet struck Roberts, knocking him against a metal bulkhead on the vessel.

7) Roberts sustained, *inter alia*, the following injuries: three broken ribs, a separation of his left shoulder, lumbar strain and sprain, a broken tooth and groin injuries. He was evacuated from the vessel by ambulance.

8) Roberts has since undergone extensive medical treatment, including surgery, for the injuries he sustained onboard the *SHINANO REEFER*. Roberts continues to require periodic medical treatment to deal with these injuries.

III. Negligence

9) The Plaintiffs incorporate and re-nudge allegations 1) - 8).

10) This is an action for the vessel's negligence to a business licensee lawfully onboard the vessel and working it in the conduct of maritime commerce.

11) The standard for a finding of negligence by the vessel under the Jones Act is "featherweight": any liability, however slight, gives rise to a finding of such Jones Act negligence.

12) The vessel was negligent, *inter alia*, in the following manner:

a) by improperly lifting the pallet of frozen meat, causing it to swing and strike Roberts; and

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AT:ONE

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AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 05 - 454

**ACKNOWLEDGMENT  
OF RECEIPT FOR AO FORM 85**

**NOTICE OF AVAILABILITY OF A  
UNITED STATES MAGISTRATE JUDGE  
TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

June 30, 2005  
(Date forms issued)

*Peter E. Hess*  
(Signature of Party or their Representative)

Peter E. Hess  
(Printed name of Party or their Representative)

Plaintiff's Attorney

Note: Completed receipt will be filed in the Civil Action

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HORAN GOLDMAN

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ACTIVE CASE

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P. 004

b) by failing to provide adequate safety instruction to longshoremen working onboard the *SHINANO KEEPER*.

WHEREFOR, Plaintiff Roberts prays for a finding of negligence by the Defendant vessel and for the imposition of a judgment for compensatory and special damages, lost wages and lost earning capacity, temporary and permanent disability, disfigurement, pain and suffering, the intentional infliction of emotional distress, humiliation, aggravation, and such other damages as are just and reasonable.

#### V. Unseaworthiness

13) The Plaintiff incorporate and re-allege allegations 1 - 12).

14) This is an action for the unseaworthiness of the vessel under the general maritime law.

15) The vessel is liable to Roberts for its unseaworthiness in *inter alia*, the following respects:


- a) by failing to adequately train its crane operators; and
- b) by not adequately supervising crane operations so as to ensure that pallets could be unloaded without swinging dangerously.

WHEREFOR, Plaintiff Roberts prays for a finding of the unseaworthiness of the vessel and the imposition of a judgment on his behalf for compensatory and special damages, lost wages and lost earning capacity, temporary and permanent disability, disfigurement, pain and suffering, the intentional infliction of emotional distress, humiliation, aggravation, and such other damages as are just and reasonable.

Jan 30, 2006  
Dated

ATTORNEY FOR PLAINTIFF  
MICHAEL ROBERTS

Respectfully submitted,

  
PETER L. HESS, Esq.  
P.O. Box 7753  
Wilmington, DE 19803  
ph: (302) 777-1715  
DR Bar No. 2298